

caller could reach a representative; (3) replacing direct mailings with bill messages;<sup>12</sup> (4) an "on-line" interface with ODHS' records for automatic enrollment without mailed in documentation; and (5) electronic payments from DayMed (OCC Exs. 5, 20-23, 29). Ameritech personnel were suggesting cost effective, customer-oriented changes (Tr. I, 167). None of those suggestions were ever implemented by Ameritech (Tr. I, 115-116, 125, 126-128, 155, 170). Ameritech did agree to put a USA option on the main menu of the voice response unit, but that was not implemented because Ameritech later concluded that customers do not want to hear many options on the main menu (Tr. III, 159-160; Tr. IV, 44; OCC Ex. 30, at 12-13). Apparently, nearly two years after the Advisory Committee suggested this modification, there is a USA option in a sub-menu of the main menu (OCC Ex. 30, at 13; Tr. V, 7, 14). That voice response, however, inaccurately lists the qualifying programs (Tr. V, 6-9). Further, Ameritech suggested to the Advisory Committee (who rejected it) that credit counseling be established for USA customers in the Cleveland area (Tr. III, 117-118, 188-189).

#### E. Enrollment Numbers and Goals

At the time that the Commission approved the USA program in September 1994, Ameritech estimated that the program would benefit over 200,000 Ohio households (OCC Ex. 26). In April 1995, Ameritech noted that estimates of qualified families have been as high as 300,000 (Edgemont Ex. 6, at 4). Early on, the Advisory Committee raised concerns regarding the number of enrollees and the topic of enrollment goals (Edgemont Ex. 3, at 5; Empowerment Ex. 2B; Tr. IV, 159-160). Ameritech took the position that it was not possible to develop enrollment goals because it was not possible to accurately determine how many people are eligible for USA (Tr. II, 199, 202, 206, 249). Ms. Glaspie testified that no one at Ameritech communicated any goals or targets that would measure the success of the USA program (Tr. II, 196, 203, 249-250). However, Ameritech did have at least two estimates of the number of financially qualified persons from which to determine enrollment goals and even used one in a press release (Edgemont Ex. 6, at 4, 5-9). In November 1996, the Advisory Committee, including Ameritech, adopted enrollment targets of certain number of enrollees by certain dates (Empowerment Ex. 3B at 3; Edgemont Ex. 8; Tr. IV, 188-189). Ms. Glaspie does not believe she voted for the goals (Tr. II, 199). Ms. Glaspie did not report back to Ameritech that the Advisory Committee adopted certain enrollment goals and she did not discuss those goals with anyone at Ameritech (*Id.* at 207-209). Additionally, she is not aware that Ameritech attempted to achieve those numerical goals (*Id.* at 209, 222).

The goals, as adopted by the Advisory Committee, are designed to achieve a 50 percent participation rate (Tr. V, 49). They are:

50,000 by March 1, 1997  
100,000 by June 1, 1997

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<sup>12</sup> The electric and gas companies use bill messages for their customers to notify them of similar low-income discount programs (OCC Ex. 21).

200,000 by June 1, 1998  
300,000 by June 1, 1999

Empowerment Ex. 3B at 3. Ameritech is critical of those enrollment targets because it is difficult to attain static enrollment levels since the enrollees do not remain on the underlying assistance programs (Tr. II, 220-221). Ameritech did conduct a study, in April and May 1997, to evaluate the reason for the large disparity between the number of calls to the dedicated workgroup and the number of USA enrollees (Tr. IV, 8-10, 13, 16, 87; Ameritech Exs. 8-10). Ameritech did develop goals based upon the numbers of calls received, but did not implement such (Tr. III, 166-167). Ameritech believes that the numbers of calls received is a measure of its activities, while enrollment is solely within the customer's control (Tr. IV, 42-43).

From January 1996 through July 1998, 34,363 people enrolled in plan 1 (OCC Ex. 25, at 4). From January 1996 through September 1997, 13,279 people enrolled in plan 2 (*Id.*). Ms. Brockway estimates that, based upon enrollment in the underlying eligible programs, approximately 519,000 households in Ameritech's service territory are financially eligible for one of USA's underlying programs (OCC Ex. 25, at 6; Tr. II, 42-43). For plan 1, Ms. Brockway calculated that Ameritech's enrollment is roughly 10 percent of those eligible (OCC Ex. 25, at 6; Tr. II, 42-44, 88-90).<sup>13</sup>

Ms. Brockway noted that the USA program participation is poor, as compared with other low-income programs in Ohio and in other states across the country (OCC Ex. 25, at 6-11; Ameritech Ex. 3; Tr. II, 49-56). Ms. Brockway pointed out that participation in similar statewide programs in Michigan and Wisconsin (two other Ameritech states) is two to three times higher than participation in the USA program (OCC Ex. 25, at 8). On cross-examination, Ms. Brockway acknowledged that long distance charges have affected one other state's low-income community's abilities to maintain telephone services (Tr. II, 59). Additionally, Ms. Brockway stated that nonparticipation in the food stamps program is mostly due to a lack of desire for its benefits (*Id.* at 60). Furthermore, Ms. Brockway agreed that one of the reasons for less than 100 percent participation in a low-income program is people go "on and off" the underlying eligible programs (*Id.* at 67-69). Ms. Brockway concludes that there is room for improvement for Ameritech and a goal of 50 percent participation for plan 1 is achievable (OCC Ex. 25, at 12; Tr. II, 47-48, 70, 90, 92). Similarly, Ms. Brockway stated that a participation rate of 50 is achievable for plan 2 as well (Tr. II, 92).

#### F. Payment Arrangements

As noted above, the original USA program required Ameritech to grant reasonable payment arrangements to allow those eligible to enter the program. Payment arrangements were among the initial topics raised by the Advisory Committee members

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<sup>13</sup> Ms. Brockway was not able to determine a participation percentage for plan 2 participants (Tr. II, 85-87, 95-96).

(Tr. IV, 164; Empowerment Ex. 2K at 3). The committee raised concerns because Ameritech's collection department was not always informed that the customer was a USA enrollee (OCC Ex. 30, at 27-28). Also, Ameritech apparently was not offering the same payment arrangement terms to all USA enrollees – it varied, depending upon whether the enrollee's former account was closed (OCC Ex. 30, at 27-28). Ameritech sought input from the Advisory Committee and, in mid- or late-1995, established a USA payment arrangement that corresponded with some of what the Advisory Committee had recommended (Ameritech Ex. 7, at 4; Tr. III, 84-85; Tr. IV, 164-165; Tr. V, 35-36). Ameritech first would explore what the customer was able to pay before offering the USA payment arrangement (Tr. III, 82). Depending upon the customer's response, Ameritech would require an initial payment of 10 percent of the total arrearage (local and toll) or \$50.00, whichever was lower, with the remainder to be paid over 18 months (Ameritech Ex. 7, at 5; Tr. III, 79; Tr. V, 36, 40). Additionally, Ameritech imposed a mandatory toll restriction upon all USA enrollees with balances over \$500, until the entire local and toll balance was paid (Tr. IV, 170). Ameritech's implementation of this USA payment arrangement included training for CCC representatives and one collection department representatives (Ameritech Ex. 7, at 5). Problems did occur because USA participants were not always offered the USA payment arrangement (Tr. V, 37, 94; OCC Ex. 30, at 28-29; Staff Ex. 1, at 5).

In the 1996 settlement, Ameritech agreed to negotiate new arrangements within 90 days of the Commission's disconnection ruling. The Commission issued a decision in the disconnection docket in June 1996, with the final entry on rehearing issued in December 1996. *Disconnection, supra*. The Commission's new disconnection regulations became effective on February 13, 1997. For a few months, beginning in December 1996, Ameritech conducted a study to determine collection amounts under different approaches, with the results provided to the Advisory Committee in March 1997 (Ameritech Ex. 7, at 5-6; Tr. III, 83; Tr. IV, 10-12; Ameritech Ex. 9). At that same time, Ameritech returned to its practice of asking the customer first what he could afford to pay before offering the USA payment arrangement and also asking for a flat \$50.00 up front (Tr. III, 82; Tr. V, 61). In April and May 1997, negotiations between Ameritech and the Advisory Committee took place (Ameritech Ex. 7, at 6; OCC Ex. 30, at 29; Tr. III, 152-154; Tr. V, 39). They did not reach an agreement, but the Advisory Committee requested that Ameritech institute its last proposal so that at least more attractive arrangements were in place than what had been in place (Ameritech Ex. 7, at 7; Tr. III, 82; Tr. IV, 225-227). The Advisory Committee contends that the up-front payment and monthly payments under Ameritech's latest USA payment arrangement were too high and the period of time too short (Tr. III, 148). Beginning in June 1997, Ameritech required a payment of \$25.00 towards the outstanding, basic local service charges, with the remainder of the local service charges to be paid over a six-month period (Ameritech Ex. 7, at 6; Tr. IV, 5-6; Tr. V, 39-40).<sup>14</sup> These USA arrangements are offered at the

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<sup>14</sup> Non-USA customers with outstanding balances are required to pay 25 percent of the total outstanding charges, with the remainder to be paid over a three-month period (Ameritech Ex. 7, at 8).

beginning of the payment arrangement conversation<sup>15</sup> and the arrangement is part of the script for the dedicated workgroup (Ameritech Ex. 7, at 8; Tr. III, 87; Tr. V, 39). Ameritech does not request that the USA enrollees pay outstanding toll charges until the local arrearages are paid (Tr. III, 86-87; Tr. IV, 5). Mr. Ondrey Gruber believes that Ameritech is still applying the mandatory toll restriction described above (Tr. IV, 206). Ameritech's implementation of this USA payment arrangement included training for CCC and collection department representatives, as well as modifications to the handbook (Ameritech Ex. 7, at 7). In August 1997, Ameritech reported to the Advisory Committee that enrollees increased under the new payment arrangements (Tr. V, 62; Empowerment Ex. 4E at 2).

Ameritech considers its current payment arrangement to be reasonable because it requires a reduced up-front payment and a sufficient period of time for the remainder to be paid (Ameritech Ex. 7, at 8). Also, this arrangement includes a grace period (with toll blocking) before making payments toward outstanding toll debts (*Id.*). Ameritech believes that the longer a customer has to pay the outstanding debt, the less likely they are to make those payments, regardless of the amounts (Tr. III, 155). Thus, Ameritech believes its payment time frame is reasonable.

Ms. Brockway remarked that the USA commitment to pay off an arrearage or make an up-front payment towards that balance creates another barrier to participation (OCC Ex. 25, at 16). Also, Ms. Brockway noted that new customers must pay connection charges, although they are credited for that payment once the USA verification has been submitted (*Id.* at 17-18). In her view, both of these circumstances decrease participation levels in USA (*Id.*).

#### G. Working with the Advisory Committee

The Advisory Committee was intended to be a "sounding board" in advising Ameritech about the USA program (Tr. II, 177; Tr. IV, 123-124). The Advisory Committee was not to run the program (*Id.*). Ameritech set up the first Advisory Committee meeting (Empowerment Ex. 2L). Originally, Ameritech envisioned that the Advisory Committee would meet three times per year, but the committee has met almost monthly (Empowerment Ex. 2L; Tr. IV, 136, 139). Since the program's inception, Ameritech has had liaisons attend the Advisory Committee meetings, as required by the plan. From March 1995 to November 1997, the primary liaisons with the Advisory Committee were Ms. Glaspie and Ms. Drombetta, although others were liaisons too (Tr. II, 113; Tr. III, 22-23, 76; Tr. V, 67-68). In November 1997, Lori Watiker, in the Regulatory Department of Ameritech Ohio, took over that responsibility (Tr. II, 105-106; Tr. IV, 42, 58; Tr. V, 49). The Advisory Committee was under the impression that Ms. Glaspie was the point person and that the External Relations Department at Ameritech

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<sup>15</sup> Ameritech agreed to this policy change because the payment study started in December 1996 showed that there was a minimal difference in the dollar amounts collected when the USA payment arrangement was offered up front, as compared to when Ameritech asked the customer how much they were able to pay toward the arrearage (Tr. IV, 29-31).

Ohio was in charge of the implementation of the USA program at least for a significant period of time (Tr. II, 163-166; Tr. V, 68; Empowerment Ex. 2J at 2; OCC Ex. 30, at 32).

Mr. Werthiem<sup>16</sup> states that, at the first Advisory Committee meeting, Ameritech personnel involved with the Advisory Committee had done little advance preparation and had little understanding of the mechanics of the program or the underlying service programs (Empowerment Ex. 1, at 5; Tr. IV, 96). See also, Empowerment Ex. 2J at 3. Ms. Glaspie recalled having two internal Ameritech meetings before the first USA Advisory committee meeting in March 1995 (Tr. II, 239).

Neither Ms. Glaspie nor Ms. Drombetta had any decision-making authority; they could only take suggestions back to Ameritech (Tr. II, 114, 160; Tr. III, 76, 220; OCC Ex. 30, at 32). There is no one person at Ameritech or Ameritech Corporation who is in charge of or oversees the USA program (Tr. I, 196; Tr. II, 110-111; Tr. III, 51, 77, 219). Rather, an ad hoc group of employees have been involved with the program and have been responsible for various aspects of it over the years (Tr. I, 195-196, 203-204; Tr. II, 108, 111, 223-224, 237, 245; Tr. III, 48, 50-51, 57, 170-171). The ad hoc group did not make decisions, but someone in the group had decision-making authority, depending upon the issue at hand (Tr. II, 8-10, 109-110, 115-116, 238). Various personnel from Ameritech or Ameritech Corporation attend the Advisory Committee meetings, besides the liaison, to address the different issues of concern (Tr. III, 20-21, Tr. IV, 82). Ameritech has a product manager for all of its lifeline programs, but he does not have decision-making authority for changes to the USA program (Tr. III, 96-7; Tr. IV, 49). From the record, it does not appear that the product manager was greatly involved with the USA program.

In accordance with its evaluation responsibility, the Advisory Committee issued three reports that evaluated Ameritech's implementation of the USA program (Edgemont Exs. 3-5). After the first critical report was issued by the Advisory Committee in December 1995, Ms. Glaspie did not recall any meetings taking place within Ameritech to discuss that report (Tr. II, 188-189).

After the second evaluation report, the Commission staff independently analyzed the Advisory Committee's allegations to determine whether those allegations had any validity, which would warrant Commission action (Tr. V, 77). In August 1997, a report was compiled (Staff Ex. 1). The report is critical of Ameritech, stating that the company seems intent upon minimizing participation in order to prevent fraudulent participation (Staff Ex. 1, at 8). Also, the staff recognized that some changes to the program had occurred as a result of recommendations by the Advisory Committee (*Id.* at 9). However, the staff felt that the changes had been disjointed such that Ameritech was appeasing the Advisory Committee by "tinkering" with the program, while offering few meaningful changes during the term of the alternative regulation plan (*Id.* at 9). The staff analysis included several recommendations (*Id.* at 9-11).

<sup>16</sup> Ameritech asked Mr. Werthiem to be a member of the Advisory Committee (Empowerment Ex. 1, at 2-3; Tr. IV, 113). He served as its chairman for 1995 and 1996 (Empowerment Ex. 1, at 4; Tr. IV, 68).

#### H. The Addition of Call Waiting to Plan 1

After the second settlement was approved, the Advisory Committee established a subcommittee to explore offering Call Waiting to USA plan 1 participants (Empowerment Ex. 4C at 3). In September 1996, it submitted a proposal for offering Call Waiting to USA plan 1 customers on a one-year basis (Ameritech Ex. 7, at 9). Additional details were provided to Ameritech in February 1997 (*Id.*). Ameritech Corporation considered that question and, in March 1997, determined it could not offer Call Waiting because it would promote additional charges to persons who already have experienced problems paying their bills and, in some cases, who had special payment arrangements (Tr. II, 243; Tr. III, 175-178). Ameritech Corporation made the decision on this issue (Tr. III, 183).

Ms. Brockway specifically noted that she does not believe that participants should be prohibited from taking vertical services, such as Call Waiting, because so many more customers are purchasing such services today (Tr. II, 75, 84-85, and 90). Rather, she stated that new service customers (without an arrearage) should be able to subscribe to vertical services (*Id.* at 76, 90-91). However, if the customer falls into an arrearage situation or is disconnected for nonpayment and wishes to participate in the low-income program, the customer should not have the vertical services (*Id.*).

#### IV. Arguments of the Parties

##### A. Ameritech

Ameritech contends that it has implemented the USA program, as well as a number of additional changes beyond that required (Ameritech Brief at 2). Ameritech states that it has met the written USA program obligations – those which are set forth in Exhibit G of the alternative regulation plan, as revised by the 1996 settlement agreement (Ameritech Brief at 2-3). Ameritech alleges that the review in this case should be limited to Ameritech's actions since the 1996 settlement because all prior issues were resolved by the 1996 settlement agreement (Ameritech Brief at 3; Ameritech Reply Brief at 2-9). Ameritech points to the record to substantiate its contention that it complied with the enhancements to the USA program that were required by the 1996 settlement (Ameritech Brief at 8-24). In particular, Ameritech notes that the consumer groups would like the dedicated workgroup to not only enroll participants, but also to establish their telephone service and to make payment arrangements (Ameritech Brief at 12; Ameritech Reply Brief 16-20). As for the negotiation of payment arrangements, Ameritech claims that the consumer groups are pointing to problems occurring before the current arrangements were put into place (Ameritech Brief at 15). Ameritech points out that its plan does not require it to redesign service establishment or billing procedures specifically for USA customers (Ameritech Brief at 12). Regarding publicity, Ameritech contends that its only legal obligation to publicize the program was that set forth in the 1996 settlement agreement (Ameritech Brief at 23). Ameritech believes

that it has disseminated significant amounts of information about the program and any delays were reasonable responses to avoid disrupting service to all residential customers (Ameritech Brief at 23; Ameritech Reply Brief at 20-26).

Additionally, the company notes that one negotiated aspect of the USA obligation is that participants can only subscribe to basic local telephone service, not other optional services (Ameritech Brief at 4-5). Thus, in Ameritech's view, the current request to add Call Waiting seeks to modify the alternative regulation plan (Ameritech Brief at 33). Also, Ameritech argues that there are no enrollment objectives for the program in the alternative regulation plan and, thus, the company's compliance should not be evaluated by consideration of the numbers (Ameritech Brief at 3; Ameritech Reply Brief at 27-30). Nevertheless, Ameritech notes that enrollment has increased during each year of the plan, with over 106,000 enrollees and over 300,000 calls handled (Ameritech Brief at 24). Ameritech states that, given the program's restrictions, its enrollment numbers are not unreasonable when compared to other states (Ameritech Brief at 34). Further, Ameritech notes that, if the Commission were to accept the enrollment goals adopted by the Advisory Committee, the Committee would effectively be amending the plan, creating a new obligation, and penalizing Ameritech for failures to meet such goals (Ameritech Brief at 32-33, 36).

Ameritech states that it made the following changes voluntarily to the USA program, upon the advice of the Advisory Committee:

- (1) increased the monthly discount from \$8.00 to \$10.20 for plan 1 customers;
- (2) added food stamps and federal housing assistance to the list of qualifying programs on January 1, 1998;
- (3) added USA as an option on the voice response menu when calling the CCCs;
- (4) installed a telecopier line for receiving USA documentation;
- (5) installed four, direct-line telephones at ODHS buildings in Cleveland;
- (6) implemented the self-verification process in January 1998;
- (7) provided USA information to persons attending a Department on Aging seminar in September 1997;
- (8) established an incentive for USA for the CCC representatives in dealing with USA customers; and
- (9) converted existing TSA customers to USA's higher discounts.

(Ameritech Ex. 7, at 10-11; Tr. III, 89; Tr. IV, 79; Ameritech Brief at 25).

Additionally, Ameritech argues that automatic enrollment is not required by the existing alternative regulation plan (Ameritech Reply Brief at 37-38). Further,

Ameritech contends that, with automatic enrollment, the customer would not affirmatively select USA (the government would) (*Id.* at 38). Ameritech contends that the Commission has rejected the concept of negative enrollment (*Id.*). See, *In the Matter of the Commission Investigation into the Detariffing of the Installation and Maintenance of Simple and Complex Inside Wire*, Case No. 86-927-TP-COI, Supp. Finding and Order at 23, (September 29, 1994).

Ameritech states that the other parties' allegations raise concerns beyond what the 1996 settlement required and should only be considered in the 6-year review of the alternative regulation plan or by mutual agreement (Ameritech Brief at 3, 11). In Ameritech's view, the issue before the Commission is whether the company has met the requirements of the 1996 settlement, not how the program can be improved or how enrollment can be increased (Ameritech Brief at 26).

#### B. Consumer Groups

With regard to the legal standard by which Ameritech's actions should be evaluated, OCC, Edgemont, and APAC contend that, as with any service offering, Ameritech is required to furnish necessary and adequate service, facilities, and instrumentalities, pursuant to Section 4905:22, Revised Code (OCC Brief at 4; Edgemont/APAC Reply Brief at 3). Also, OCC contends that Ameritech must provide the necessary information to subscribers and applicants to obtain the most economical services conforming to their needs, pursuant to Rule 4901:1-5-06(D)(1), Ohio Administrative Code (OCC Brief at 4). Edgemont and APAC argue that ameritech should be held to a duty of good faith and fair dealing with regard to its agreement with USA (Edgemont/APAC Brief at 6, 11). Also, the Commission should evaluate whether Ameritech took each of the necessary steps to fulfill its obligation within a reasonable time and carried out each of those activities for a reasonable duration (*Id.* at 9). AARP argues that the Commission has the authority under the alternative regulation rules to modify its order, which approved the alternative regulation plan (AARP Reply Brief at 3). In AARP's view, the Commission should modify its order and require Ameritech to take specific actions to really implement the USA program (*Id.* at 4).

The consumer groups contend that the record demonstrates Ameritech's failure to meet its obligation because it did not use reasonable and good faith efforts with the USA program. They argue Ameritech has not sustained its burden of proof (Edgemont/APAC Brief at 12; OCC Reply Brief at 12). Specifically, one or more of the consumer groups contend that Ameritech failed in the areas of enrollment (processes, enrollment numbers, and use of a dedicated workgroup), leadership, promotion, adequate staffing, adequate training, and unreasonable payments (OCC Brief at 5-26; OCC Reply Brief at 5-9; Edgemont/APAC Brief at 15-40; Empowerment Brief at 19-31; Empowerment Reply Brief at 5-9). Of particular note, Mr. Wertheim criticized Ameritech for a lack of information on implementation, the lack of preparation by the CCC representatives, the multiple liaisons with the Advisory Committee (with no continuity), a lack of committed resources, and the failure to develop a community outreach



program (the Advisory Committee developed the one that was implemented) (Empowerment Ex. 1, at 5-8; Tr. IV, 77, 82-83, 94-95). Mr. Wertheim suggested that some of the basis for the CCC representatives' behavior was due to the fact that they received incentives for selling other Ameritech services, but not for USA for a period of time (Empowerment Ex. 1, at 7). Some of the consumer groups noted the various positions that Ameritech took regarding the use of a written application and the lack of any true effort to simplify the eligibility verification process (OCC Brief at 6-10; Edgemont/APAC Brief at 30-31; Empowerment Brief at 27-30). Edgemont and APAC argued that Ameritech failed to take the initiative to identify and solve problems or to establish goals related to any aspects of USA (Edgemont/APAC Brief at 18, 22).

The consumer groups contend that the actual enrollment figures demonstrate the program's failure, either in comparison with the enrollment goals adopted by the Advisory Committee, Ms. Brockway's recommended participation rate, or Ameritech's own participation estimates (OCC Brief at 13-14; OCC Reply Brief at 3-4; Empowerment Brief at 7, 9-10; Edgemont/APAC Reply Brief at 9-11). OCC, Edgemont, and APAC criticize the limited tasks accomplished by the dedicated workgroup, arguing that enrollment in the program should include establishment of new service and making payment arrangements for new service customers (OCC Brief at 15; Edgemont/APAC Brief at 33-35; Edgemont/APAC Reply Brief at 5). On the subject of promotion, OCC states that Ameritech could not reasonably implement USA without dissemination of correct information (OCC Brief at 19). OCC argues that Ameritech did not promote USA equally across its service territory (OCC Brief at 20). Edgemont and APAC point out that there is no evidence that Ameritech has provided mailings to recipients of several of the underlying programs and it appears that the mailings that were done did not supply information to all recipients of those programs (Edgemont/APAC Brief at 23-26; Edgemont/APAC Reply Brief at 6).

On the subject of training, OCC states that Ameritech could not reasonably implement USA without training its staff so that it provides adequate service. The consumer groups point to the evidence in the record which illustrates that, for the first two years of the program, incorrect USA information was provided by Ameritech's service representatives (OCC Brief at 24; Edgemont/APAC Brief at 28; Edgemont/APAC Reply Brief at 5-6). Additionally, they note that, even with the establishment of the dedicated workgroup, USA calls were still improperly handled and incorrect information was provided as late as the summer of 1997 (OCC Brief at 25; Edgemont/APAC Brief at 29).

Not only do the consumer groups argue that Ameritech failed in the various areas noted above, they also argue that Ameritech has resisted or deliberately failed to take appropriate action and without reason (OCC Brief at 6, 8; Edgemont/APAC Brief at 9; Empowerment Brief at 12). Mr. Wertheim stated that Ameritech appears to have been interested in doing as little as possible with the USA program (*Id.* at 5-7, 10). Mr. Wertheim contended that the Advisory Committee has had to fight for results (*Id.* at 10; Tr. IV, 107). Mr. Wertheim stated that his experience on the Advisory Committee

demonstrates "a Company that had no real commitment to the USA program, a Company that was unwilling to staff this Committee adequately, and a Company who actually wanted USA to be an ineffective program" (Empowerment Ex. 1, at 11). Similarly, Ms. Leach-Payne stated that Ameritech was not committed to the program throughout the first year and the same problems continue to plague the program to this day (OCC Ex. 30, at 6). In particular, Ms. Leach-Payne concluded that, for over three years, Ameritech has been unable or unwilling to properly handle the volume of calls from interested customers, which demonstrates its failure to meet the USA commitment (OCC Ex. 30, at 16).

Additionally, Empowerment claims that Ameritech has violated its obligations by not allowing, with justification, USA plan 1 customers to also purchase Call Waiting (Empowerment Brief at 31-33; Empowerment Reply Brief at 10-11). Empowerment contends that the financial impact of the lost discounts upon low-income families is very significant (Empowerment Brief at 11). Further, Empowerment argues that the financial impact upon Ameritech by having low enrollment numbers is significant (*Id.* at 12). Empowerment alleges that Ameritech's actions (or inactions) also had nonfinancial impacts (*Id.* at 14).

### C. Consumer Groups' Suggested Remedies

All of the consumer groups recommend that the Commission order Ameritech to modify its practices with the USA program (OCC Brief at 26-29; Edgemont/APAC Brief at 46-47; Empowerment Brief at 34-36). OCC states that no benefit would be provided to the low-income community, if the Commission were to abrogate Ameritech's alternative regulation plan (OCC Brief at 26). Basically, one or more of the consumer groups recommend the following changes to the USA program:

- (1) Ameritech should be ordered to negotiate and implement automatic enrollment agreements with each of the agencies that administer eligible benefits programs.<sup>17</sup>
- (2) Ameritech should implement on-line verification agreements with all agencies that administer eligible benefits programs.
- (3) Ameritech should designate a single person who is responsible for implementation of USA, who has decision-making authority, and who will be accountable for USA's implementation.

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<sup>17</sup> OCC recommends that automatic enrollment should be in place with ODHS no later than six months and nine months for other agencies from the date of the decision (OCC Brief at 27). If Ameritech could demonstrate that automatic enrollment is not possible, OCC contends that the Advisory Committee's enrollment goals should be implemented (*Id.* at 28).

- (4) Ameritech should place and keep a USA VRU selection on the main menu of the 800 number that the customers call to contact the CCCs.
- (5) Ameritech should assure that all work groups involved with processing USA applications have sufficient personnel and hours.
- (6) Ameritech should continue to use a variety of means to promote the program.<sup>18</sup>
- (7) The Commission staff should conduct a comprehensive audit of the implementation of the program.
- (8) Ameritech should provide sufficient funding and materials for promotion.<sup>19</sup>
- (9) Ameritech should establish one worgroup to handle all aspects of USA, from initial contact to service establishment, to arrearage negotiations.
- (10) Ameritech should distribute a written application form with address and postage.
- (11) Ameritech should install dedicated telephones in the remaining ODHS buildings.
- (12) Ameritech should specify the objective of including the entire eligible population in the USA program.
- (13) Ameritech should establish enrollment goals in cooperation with the Advisory Committee.
- (14) USA customers should have the option of subscribing to Call Waiting.

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<sup>18</sup> Edgemont and APAC delineated specific means for such promotional efforts, including: Ameritech should mail promotional materials to all recipients of the underlying programs at least one time each year, include a bill stuffer in each Ameritech bill at least one time per year, and put prominent notice in all Ameritech telephone books (Edgemont/APAC Brief at 46). Empowerment advocates more outreach and targeting church and senior citizens housing (Empowerment Brief at 34-35).

<sup>19</sup> Empowerment suggests a minimum budget of \$240,000 or turning over \$25 million to the Advisory Committee for distribution (Empowerment Brief at 35).

- (15) Ameritech needs to study why enrollees drop off the program and needs to talk with other entities with low-income programs.

(OCC Ex. 25, at 20-27; OCC Ex. 30, at 34-36; Tr. II, 93-94; Tr. IV, 104-105, 111; Tr. V, 65; OCC Brief, at 26-29; Edgemont/APAC Brief at 46-47; Edgemont/APAC Reply Brief at 11; Empowerment Brief at 29, 34-36; Empowerment Reply Brief at 15-17).

Additionally, Edgemont and APAC request that the Commission:

- (1) find Ameritech failed to comply with its alternative regulation plan;
- (2) direct Ameritech to come into compliance with its plan and fully implement the program;
- (3) require Ameritech to make proper restitution and compensation as detailed in the show cause motion;
- (4) conclude that it would not be in the best interest for Ameritech to provide in-region, interLATA services;
- (5) find that Ameritech has violated a Commission order and is providing inadequate service; and
- (6) prohibit Ameritech from declaring any cash, stock, bond, or script dividends until Ameritech implements the USA portion of its alternative regulation plan.

(Edgemont/APAC Brief at 45-47). Lastly, Empowerment joins in the Edgemont/APAC request for reimbursement to Ameritech's low income families (Empowerment Brief at 37; Empowerment Reply Brief at 13-14).

#### D. Staff

The staff contends that Ameritech "botched" the implementation of the USA program (Staff Brief at 1, 3). In the staff's view, the program was a low priority for Ameritech; it had no desire to structure and operate USA so that it is accessible to low-income customers (*Id.* at 1, 4). The staff emphasizes that Ameritech's approach was to not even agree to a process by which the Advisory Committee would have an opportunity to address issues prior to changes being made unilaterally by Ameritech (*Id.* at 12). Staff supports the consumer groups' recommendations for automatic enrollment and a "drop off" study (*Id.* at 13-17). Additionally, the staff argues that Ameritech is improperly considering the federal lifeline program as a sub-component of SCA and USA, rather than a stand-alone program (*Id.* at 5-6).

Based upon Ameritech's track record, the staff recommends that the Commission establish some parameters for the company to follow (Staff Brief at 10-11). In particular, the staff suggests the Commission do the following:

- (1) order Ameritech to formally appoint a leader who will be responsible for implementation of USA and related matters;
- (2) require Ameritech to consult with the Advisory Committee prior to making any significant changes to implementation procedures or practices, absent exigent circumstances;
- (3) order Ameritech to work with the Advisory Committee and ODHS to establish automatic enrollment for USA; and
- (4) order Ameritech to work with the staff to create and implement a methodology to research why people drop off USA and report the results each month to the Advisory Committee.<sup>20</sup>

(Staff Brief at 2, 10-17).

#### V. Discussion

First, we will address Ameritech's argument that the Commission's review of Ameritech's compliance with the alternative regulation plan (as it relates to the USA program) must be limited to Ameritech's actions since the 1996 settlement. Edgemont, APAC, and OCC argue that there is nothing in the 1996 settlement agreement which supports Ameritech's position (Edgemont/APAC Reply Brief at 4; OCC Reply Brief at 4-5). In other words, the 1996 settlement merely required enhancements to the plan. Also, Edgemont and APAC argue that Ameritech has waived this argument because it is the first time Ameritech has raised it (Edgemont/APAC Reply Brief at 4; OCC Reply Brief at 4-6). We have reviewed the 1996 settlement agreement. The signatory parties to that agreement (including Ameritech, OCC, and the staff, who participated in this hearing) intended to resolve several contested issues that were pending before the Commission. There are a number of references to specific dockets and claims in the 1996 settlement agreement. There is no specific reference that the 1996 settlement was intended to resolve the Advisory Committee's comments in any of the evaluation reports. Further, the motion that precipitated this hearing had not yet been filed with the Commission. Therefore, it is our opinion that the 1996 settlement cannot be read to preclude consideration of evidence which establishes a pattern of activity since the alternative regulation plan was initially adopted. Additionally, we note that the claim

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<sup>20</sup> The staff also requested that the Commission determine that: (1) the federal lifeline program benefits should be available on a stand-alone basis without any additional restrictions or conditions; and (2) the federal lifeline program is not a sub-component of SCA, but may be offered in conjunction with SCA (in the USA plan 2) without additional conditions or restrictions (Staff Brief at 2, 5-10). On December 17, 1998, these concerns were resolved by the Commission when it approved proposed tariff pages in *In the Matter of the Application of Ameritech Ohio to Revise Its Tariff*, PUCO No. 20, to *Modify terms and Conditions Regarding Lifeline Assistance and Linkup*, Case No.98-1487-TP-ATA, Finding and Order.

raised in the motion does not allege that Ameritech's actions between 1995 and the 1996 settlement agreement amount to a violation of its alternative regulation plan. Rather, the motion alleges a continued pattern, which amounts to a failure to adhere to the USA commitment. Thus, we are not convinced that the terms of the 1996 settlement limit our review of Ameritech's compliance with the USA commitment in the alternative regulation plan. Accordingly, we will evaluate Ameritech's compliance with establishing a USA program, as that program is outlined in the alternative regulation plan and the 1996 settlement.

Nearly all of the witnesses at the evidentiary hearing agree that the USA program is designed to assist low-income people obtain and retain telephone service (Tr. II, 23, 111; Tr. IV, 42, 227-227; Tr. V, 99). A number of the public witnesses also stated that the program's purpose was worthwhile (Public Hearing Tr. 44, 47, 59, 69, 86). From the very beginning, Ameritech envisioned that the program would help a large segment of the low-income community in Ohio (Empowerment Ex. 2L; OCC Ex. 26; Edgemont Ex. 6). Ameritech acknowledges that the design of a program is a significant factor to its acceptance (Ameritech Brief at 33). However, program design is not the only factor affecting acceptance. Ameritech contends that it has met the written obligation. Ameritech is correct in stating that the record supports a finding that it: (1) funded a USA program-specific publicity efforts in the amount of \$122,000 each year; (2) implemented a dedicated workgroup, separately funded by Ameritech Ohio, to determine eligibility and to enroll customers in the program; (3) implemented a toll free 800 number with direct access to the dedicated workgroup and displayed it on USA publicity materials; (4) negotiated the terms and conditions of payment arrangements for past due bills for USA applicants after the Commission's final disconnection order; and (5) explored whether there are mutually agreeable terms under which Call Waiting could be made available to USA program participants.

However, Ameritech's argument misses the point. The consumer groups are not alleging that, for instance, Ameritech did not establish a dedicated workgroup or a toll free 800 number. Rather, they are arguing that the overall manner in which Ameritech has handled the USA program amounts to a failure to meet the obligation to which it agreed. In other words, they claim that Ameritech has not met its USA commitment - i.e., Ameritech did not implement everything necessary to have an efficient and effective program.<sup>21</sup> The question is did Ameritech handle the USA program to the extent that it effectively has not complied with its agreement to establish a program? The consumer groups point to several fundamental aspects of the program. We agree that, overall, Ameritech's actions with the USA program demonstrate a failure to meet the spirit of the commitment it made. We do not reach this conclusion simply because there were a few problems with the implementation of the USA program (in fact, there were more than a few problems with its implementation). It appears to us that the Advisory Committee has raised many important and logical

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<sup>21</sup> "Commitment" is defined in the Alternative Regulation Rules as "an obligation to provide services or enhance their value to customers pursuant to a company's approved alternative regulation plan." Alt. Reg. Rule II(E).

questions/suggestions about the program from the very beginning. The record in this proceeding demonstrates that Ameritech did not approach the key aspects of the USA program with an intent of making the program well known and effective. In our view of the record, we believe that Ameritech either "dragged its feet" or structured its approach in a manner that stunted the effectiveness of the USA program. We cannot conclude from such consistent and repeated actions that, overall, Ameritech has met the spirit of its commitment. We explain the rationale for this finding more fully below.

The record establishes that Ameritech publicly stated that the program would help a significant number of low-income persons, but Ameritech planned to do very little to publicize the USA program. It is difficult to understand how Ameritech believes that it would be doing everything it could to publicize USA program when the first communications plan was very limited and not even targeted to the segment in which the USA program is designed to assist. In fact, Ameritech did not devise a USA-specific communications plan until after the Advisory Committee suggested more aggressive publicity. Ms. Glaspie, who was in charge of the communications plan, recalls having only two internal Ameritech meetings before the first USA Advisory Committee meeting in March 1995 (Tr. II, 239).

While some of the consumer groups have pointed to the time to develop an initial brochure and brochure supply problems, the development time and supply shortages are not our biggest concern regarding publicity. Rather, we are concerned that the initial brochure required substantial revisions in order to effectively convey information about USA. We have repeatedly advocated that customer information be clear and accurate. See, e.g., our statements regarding customer education guidelines in the context of local telephone competition, *In the Matter of the Commission's Investigation Relative to the Establishment of Local Exchange Competition and Other Competitive Issues*, Case No. 95-845-TP-COI, Finding and Order at 67-69 (June 12, 1996), and our statements in *Sprint Communications Company L.P. v. Ameritech Ohio*, Case No. 96-142-TP-CSS, Opinion and Order at 26-27 (September 11, 1997). Similarly, we find it troublesome that Ameritech did not utilize its own marketing personnel in devising a communications plan and publicity materials for USA, but instead hired public relations firms. The record demonstrates that at least one other Ameritech company provided a low-income program during this time frame, yet Ameritech personnel did not consider it until the Advisory Committee began asking questions (Tr. II, 240-241). Along that same line, Ameritech has not really looked at other utilities' low-income programs in the course of providing the USA program (Tr. I, 199; Tr. III, 208). Ameritech chose not to tap resources that may have been particularly useful for it.

Similarly, at the suggestion of the Advisory Committee, Ameritech agreed to utilize certain social service agencies to conduct outreach in its service territory. However, the Advisory Committee then orchestrated the outreach program (including suggesting service providers, writing the request for proposal, reviewing the proposals,

and making decisions on hiring and rehiring). Quite simply, on this publicity effort, Ameritech took a back seat.

When the Advisory Committee arranged for the ODHS mailings, Ameritech did not anticipate the large response. While a response rate can be difficult to gauge, Ameritech did not use its first experience to take the necessary steps to accommodate the response to future mailings. Instead, Ameritech repeatedly sought to scale back the most effective publicity effort because it chose not to adjust its staffing to accommodate the expected response. The result is that 560,000 mailings may have been made over a one-year period, but those mailings were not sent to 560,000 different beneficiaries. Thus, it appears that a number of qualified persons did not receive the USA information by virtue of the manner in which Ameritech structured this publicity effort. The consumer groups' argument on this point is well made.

As for the enrollment process, Ameritech points to the fact that, if a USA enrollee already has telephone service from Ameritech, that enrollee need only talk to the dedicated workgroup. Ameritech also notes that all residential customers must talk with the CCCs and, when appropriate, collection departments. In this sense, USA customers are not treated differently by Ameritech. Nonetheless, the enrollment process is rather complicated, with the potential for many transfers. In fact, in May 1995, Ameritech personnel believed that they were having continued problems with implementing the USA program within their own organization (OCC Ex. 27, page 2). Additionally, there is clear evidence that Ameritech personnel were often not interested in handling USA customers or gave improper information. Ameritech states that these were typical problems at first, but they dropped off. The evidence demonstrates that Ameritech took timely action to correct particular difficulties with the CCC representatives and collection departments, however, we believe that the problems nevertheless persisted. In fact, some of the same difficulties with the representatives occurred two years into the program. See, e.g., OCC Exs. 15, 16, 18, 24, and 30, at 28-29; Staff Ex. 1, at 5. Moreover, the record also demonstrates that a significant number of USA customers are transferred to the dedicated workgroup from the CCC -- between 43 and 70 percent (Tr. I, 136, 189-190). Additionally, approximately 70 to 80 percent of the dedicated workgroups' calls must be transferred to the CCC for some reason (OCC Ex. 6; Ameritech Ex. 8). Thus, this part of the enrollment process creates more opportunities for difficulties since numerous individuals are involved.

In addition to the transfers, the enrollment process required, for an extended period of time, the submission of documentation that specifically demonstrated enrollment in one of the underlying programs. It was not until July/August 1997 (after the Advisory Committee suggested that a study be done) that Ameritech evaluated, through a small sample, why there was a disparity between the numbers of calls handled by the dedicated workgroup and the number of enrollees. From that sampling, the submission of documentation was the second largest impediment to enrollment. In January 1998, Ameritech began to allow self-verification to make it easier for USA participants. The Advisory Committee had suggested that modification at least a year



earlier. It appears that Ameritech was concerned about fraudulent enrollments (Tr. V, 58, 89). However, in 1998, Ameritech implemented the self-verification process, following a federal decision on universal service. There is nothing in the record that shows Ameritech addressed its concern for fraudulent enrollment in some other manner. Ms. Drombetta acknowledged that the self-verification process should help to diminish documentation as an enrollment barrier, but self-verification will not eliminate this barrier (Tr. IV, 40-41).

The largest enrollment barrier appears to be the payment of arrearages. On this subject, Ameritech has implemented a number of arrangements over the course of offering the USA program. In the beginning, Ameritech applied its regular payment arrangements to USA enrollees, even though Ameritech had specifically agreed to implement reasonable arrangements for this group in order to allow them to enter the program. Ameritech continued to insist that it explore what the customer could afford to pay before offering the USA payment arrangement. In December 1996 (only after the Advisory Committee inquired why former customers with live accounts could not be offered USA payment arrangements), Ameritech discovered that exploring what the customer could pay did not result in the recovery of greater funds.

With the 1996 settlement, Ameritech and the Advisory Committee began negotiations within 90 days of the effective date of the new disconnection regulations; however, not within 90 days of the final order. While those negotiations were ongoing, Ameritech reverted to asking the customer what he could afford. There was no explanation in the record of why this change in policy occurred.

Also, Ameritech implemented direct-line telephones in certain ODHS buildings in Cuyahoga County on a pilot basis. The pilot was well received. Ameritech agreed to implement similar telephones in all other ODHS buildings in its service territory where there was not a technical infeasibility issue (Tr. III, 35). To date, Ameritech has not followed through. There is no explanation in the record for Ameritech's failure to follow through on this matter. Similarly, Ameritech stated that it had developed goals for USA based upon the number of calls it receives (Tr. III, 166-167). However, Ameritech has never implemented those goals and there is no explanation in the record for not doing so.

Along that same line, Ameritech has taken several conflicting positions regarding implementation of a voice response unit (VRU) and the use of a mail-in application. Those changes in position resulted in delays and the record does not explain why Ameritech changed its position. Moreover, the record reflects that the current VRU message is inaccurate because it does not list the correct underlying programs or accurately state that anyone who has been in a qualifying program during the last 12 months is eligible for USA (Tr. V, 6-9). Additionally, by listing USA solely under the "new service" option, the VRU does not recognize that USA is available to current customers too.

Ameritech has had a liaison with the Advisory Committee, as required by the original terms of the alternative regulation plan. However, that liaison does not have decision-making authority and there is no one person who oversees the USA program. This structure has made it particularly difficult to have dialogue between the company and the committee. Furthermore, this structure has made it difficult for the Advisory Committee to be the "sounding board" that it was intended to be. Instead, this structure has resulted in small, ad hoc adjustments being discussed over extended periods of time before being implemented (but not in a comprehensive or structured manner). Additionally, the record reflects that Ameritech cut back its involvement with the Advisory Committee because the instant litigation was taking place and Ameritech was concerned that any information received in the meetings would be used in the litigation (Tr. IV, 100). Furthermore, Ameritech took the position that it could implement changes to the USA program without consulting the Advisory Committee (Ameritech Ex. 14). In fact, Ameritech made changes and did not notify the committee before or after (e.g., marketing optional services to "participants" and reverting to prior payment arrangement practices) (Tr. V, 60-62, 68-71; OCC Ex. 30, at 29). Clearly, the company/Advisory Committee relations have become strained and difficult.

As we noted earlier, Ameritech not only argues that it has met its obligations, it also contends that it voluntarily made several modifications to the program. While Ameritech claims that those changes were voluntary, we note that the increased monthly discount for plan 1 customers was the result of the Advisory Committee suggesting that Ameritech increase the credits as a result of additional funding from the federal and/or state government (Tr. III, 89, 185-186, 209-211, 218; OCC Ex. 30, at 33). The addition of food stamps and federal housing assistance as qualifying programs and the self-verification process were results of the FCC's universal service decision (Tr. III, 89-90; OCC Ex. 30, at 33). The USA option on the voice response menu is on a sub-menu, not the main menu as Ameritech had agreed (OCC Ex. 30, at 13; Tr. V, 7, 14). Finally, the USA information provided to the persons attending a September 1997 seminar was through a booth (Tr. III, 184).

When these important aspects of the USA program are considered together, we conclude that Ameritech was not actively attempting to meet its commitment. In some respects, Ameritech has not even explained on the record why it did what it did. It appears that Ameritech preferred to do very little for this program.

## VI. Conclusion

Based upon the foregoing, we have found that Ameritech has not materially complied with the terms of its alternative regulation plan, as the terms relate to the establishment of the USA program. In accordance with the terms of its alternative regulation plan, we are hereby providing Ameritech with notice of that conclusion, the basis of that conclusion, and a period of time in which to come into compliance

(Plan, Section 28). We further believe that specific direction as to how Ameritech should come into compliance is warranted.

We are addressing Ameritech's provision of the USA program. We disagree with Ameritech's argument that the consumer groups' recommendations can only be considered in the 6-year review of the plan or by mutual agreement. There is nothing in Ameritech's plan that precludes specific directions from this Commission as to how compliance must be accomplished. In our consideration of this case, we are establishing the manner in which Ameritech must come into compliance with its USA obligation. We are not establishing the standard by which low-income programs must be offered in Ohio, nor are we ordering any other company to offer such a program. The remaining question we face is what are the most appropriate directives to bring Ameritech into compliance..

First and foremost, we conclude that one person should be designated to have responsibility for the USA program. That person should have ample decision-making authority for the various issues related to this program, be capable of overseeing the program (including changes), and be committed to carrying out the responsibilities of the program. That person should also be directly involved with the Advisory Committee. The designation of an appropriate person should go a long way to improving relations with the Advisory Committee, improving the administration of the USA program, and ensuring compliance with this decision.

Improvements should be made with regard to publicity. It appears that far less publicity has occurred in 1998 than in prior years. We are not convinced that an annual budget for publicity is sufficient to ensure that proper publicity occurs. Workable and creative publicity efforts are possible with an on-going, consistent campaign. Personnel capable of developing appropriate materials must be available for this program and an "action plan" under which future publicity efforts will be undertaken should be developed. The action plan should be provided to the Advisory Committee so that it may consider Ameritech's intentions for its publicity efforts.

The enrollment process is rather onerous with numerous personnel involved. On the one hand, the consumer groups prefer one workgroup to describe the program, enroll people, address payment arrangements, and establish service. On the other hand, Ameritech raises proprietary concerns if its outside vendor were to have all of those responsibilities. Furthermore, there would be an inevitable learning curve that would result if one internal workgroup had to be established. An appropriate middle ground is the establishment of a dedicated workgroup composed of both in-house and out-of-house personnel. The mechanics will need to be addressed by Ameritech and the Advisory Committee, but this approach will allow one group of individuals to handle USA customer needs, without transfers, and with less opportunity for errors. Additionally, this one group of individuals will become well versed in the USA program and issues.

Also related to the enrollment process, the consumer groups have advocated that automatic enrollment and on-line verification be implemented. Automatic enrollment is the process by which Ameritech would receive information (by data transfers) from which it could match its subscribers with those receiving benefits from the underlying programs (OCC Ex. 25, at 21). Current customers who are determined to be USA eligible are automatically enrolled into USA, subject to the person's right to "opt out". Persons who are not currently Ameritech customers but determined to be eligible for USA would be advised of their eligibility and invited to return a card in order to begin their enrollment. Later, if the information does not produce a "match" for a period of consecutive months, a letter is automatically sent to the USA customer, advising him that termination of USA benefits is pending unless continued eligibility can be demonstrated. Utilities in New York and Massachusetts currently use an automatic enrollment process for their low-income programs (*Id.* at 21). On-line verification is the process by which the dedicated workgroup could interface, electronically, with ODHS for instance and, through that interface, determine that the caller is qualified for USA because it has been/is a recipient of benefits from one of the underlying programs (*Id.* at 23). Ameritech Michigan and Ameritech Wisconsin both use on-line verification in their low-income programs (*Id.* at 24).

The record reflects that Ameritech was willing to "look into" an on-line verification process (Tr. II, 71). Ms. Drombetta spoke with ODHS and was told no, because of client confidentiality issues (Tr. II, 23-24; Tr. III, 98-99, 123). However, an Advisory Committee member then spoke with ODHS and has addressed ODHS' concerns (Tr. III, 124). Ms. Leach-Payne noted that ODHS (and probably the other administering agencies too) is amenable to the establishment of a process under which recipient information would be accessible to Ameritech so that benefit recipients can be enrolled in USA automatically by Ameritech (Tr. V, 11-12, 65-66). Additionally, the record reflects that the time between a call to the dedicated workgroup and receipt of the self-verification documentation and/or the initial arrearage payment is three to eight weeks. Moreover, the time between the call and the retroactive application of credits can be up to four months. Both of these facts illustrate to us that automatic enrollment and on-line verification may be very beneficial. Additionally, both of these mechanisms will eliminate the need for submission of documentation, which is one of the significant barriers to enrollment. For these reasons, we believe that these mechanisms are appropriate modifications to improve the enrollment process. Ameritech shall negotiate the necessary terms and obligations to implement with various service agencies an on-line verification process. Additionally, Ameritech should negotiate the necessary terms and obligations to implement an automatic enrollment pilot with various service agencies (for a discrete area in Ohio). Our staff should be involved with those discussions as well. This pilot will allow Ameritech and the Advisory Committee to analyze customer acceptance of the automatic enrollment process, as well as its technical implementation.

Furthermore, we find that (particularly with an automatic enrollment pilot) written applications should be accepted by Ameritech. Those applications should require the submission of adequate information from which Ameritech (or its dedicated workgroup) can verify that the enrollee is receiving the qualifying benefits. Thereafter, Ameritech (or its dedicated workgroup) can notify the enrollee of eligibility and ask the enrollee to contact Ameritech in order to establish service. Ameritech shall work with the Advisory Committee to develop an appropriate written application form.

In light of the repeated difficulties that Ameritech has faced with staffing when USA has been promoted, we instruct Ameritech to recognize the need to adjust staffing and fulfill that staffing need with scheduled USA publicity efforts. Staffing could be less of a concern with one group handling all aspects of the USA calls.

We decline to impose discrete enrollment numbers, as requested by the consumer groups. In our view, those who drop off the USA program may do so because they no longer are receiving the underlying benefits. In our view, that is a successful "drop off". For this reason, we are not convinced that specific enrollment numbers must be met. However, we do agree with Ameritech that how it disseminates its information and the number of calls it receives are indicia of how well USA is being received. After all, providing the option and the meaningful opportunity for people to select USA will provide a means by which to evaluate the program. Moreover, with an automatic enrollment pilot, discrete enrollment goals could be affected, depending upon when that pilot commences. Finally, we note again that Ameritech has already developed goals for the number of calls it receives. Ameritech should, therefore, be agreeable with our conclusion on this point.

As for the payment arrangement dispute, we note that there is an argument that one payment arrangement unique to all USA customers will require such customers to pay under the same arrangement regardless of their financial situation (Tr. III, 156). However, Ameritech has essentially foregone that position by implementing a \$25.00 initial payment arrangement (with the remainder due over six months). We believe this payment arrangement is reasonable, particularly since the average local arrearage is \$69.00 (Ameritech Ex. 7, at 6). We are not convinced that \$25.00 is an unreasonably high initial payment or that an extended period of months is necessary in order to pay on average \$44.00 (the difference between the average local arrearage and the initial payment amount). Therefore, we decline to impose other payment arrangements. Moreover, we note that not all of the Advisory Committee members believe Ameritech's arrangements are inappropriate - Ms. Leach-Payne finds the current payment arrangements for USA enrollees to be reasonable (Tr. V, 41).

However, we do note one concern based upon the evidence in the record. Ameritech specifically stated that it does not require USA enrollees to pay outstanding toll charges until the local arrearages are paid in full. However, for non-USA customers, Ameritech does require them to pay 25 percent of the total outstanding charges (local and toll) (Ameritech Ex. 7, at 8). This practice for non-USA customers is not consistent with our minimum telephone service standards [Rule 4901:1-5-19(C), Ohio Administrative Code] or our disconnection policy (*Disconnection, supra*, Entry on Rehearing at App. A, December 12, 1996). Accordingly, this aspect of Ameritech's payment arrangement practice for non-USA customers must be modified immediately.

We disagree that USA plan 1 should be modified to allow enrollees to also subscribe to optional services, such as Call Waiting. We are not convinced that, simply because some low income persons are interested in optional services, the basic format of USA should be modified to still allow a discount from basic service with the purchase of an optional service.

Next, we believe that Ameritech should conduct a formal study to evaluate the reasons for USA "drop offs". The Advisory Committee and our staff should review this study prior to it being conducted. Additionally, we note that Ameritech should fulfill its commitment to install direct line telephones in all ODHS offices in its service territory for which a technical feasibility issue is not present. Quite simply, there is nothing in the record that justifies Ameritech's inaction on this point.

Finally, there are two corrections that Ameritech should make. First, Ameritech's current tariff for the USA program is incomplete. The tariff (P.U.C.O. No. 9, Part 4, Section 4, First Revised Sheet No. 1) is missing the monthly credit amount for USA plan 2 (labeled in tariff as service connection assistance) (Tr. III, 213; Tr. IV, 36, 39). Second, the VRU information should be modified to accurately reflect: (1) the underlying programs for which one is eligible for USA; (2) anyone who has been in a qualifying program during the last 12 months is eligible for USA; and (3) the USA program should not be solely available under the "new services" submenu since it is available to customers with existing services. We are not requiring that USA be included in the main VRU menu, but it should be an option under another submenu besides "new services". Ameritech should correct these items immediately.

We conclude that Ameritech shall come into compliance with its alternative regulation plan USA commitment and this Opinion and Order with all deliberate speed and, in any event, within 6 months of this Opinion and Order, unless granted an extension of time from this Commission. Ameritech shall also report in writing its activities on each of these points to the Advisory Committee and file such with the Commission in this docket.

Furthermore, we note that, if Ameritech fails to comply with this decision and the directives contained herein and, thus, fails to cure its material noncompliance

with its USA commitment, the Commission may modify or revoke the alternative regulation plan, pursuant to Alternative Regulation Rule XI(E) and Section 28 of its alternative regulation plan. Lastly, we wish to point out that any other arguments that were raised by the parties but not specifically addressed herein are rejected.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) On September 4, 1997, Edgemont, Empowerment, OCC, AARP, Toledo, and APAC jointly filed a motion requesting that the Commission require Ameritech to show cause why it should not be found to be in violation with the terms of its alternative regulation plan, as they relate to the USA program.
- (2) On September 22, 1997, Ameritech filed a memorandum contra the motion.
- (3) On October 6, 1997, the examiner concluded that a revocation hearing should be held, at which Ameritech would be required to establish that it is in compliance with its alternative regulation plan. Mediation sessions were conducted over the next several months. The parties did not resolve any of the issues.
- (4) On September 3, 1998, a local public hearing was held in Cleveland, Ohio. Thirteen people presented testimony.
- (5) On September 11, 1998, the evidentiary hearing began. Ameritech presented the testimony of four witnesses, OCC presented the testimony of two witnesses, Empowerment presented the testimony of one witness, and the staff presented the testimony of one witness.
- (6) Notice of both hearings was provided to the parties in accordance with Section 4905.26, Revised Code, and published in newspapers of general circulation in Cuyahoga and Franklin counties, Ohio.
- (7) The parties filed post-hearing briefs on October 14 and 23, 1998.
- (8) Ameritech is a telephone company, as defined by Section 4905.03(A)(2), Revised Code. Ameritech is subject to the jurisdiction of this Commission pursuant to Sections 4905.04 and 4905.05, Revised Code.

- (9) Ameritech has failed to sustain its burden of proof. Ameritech has not materially complied with the terms of its alternative regulation plan, as they relate to the USA program. In accordance with Section 28 of the alternative regulation plan, Ameritech is on notice of that conclusion, the basis of that conclusion, and a period of time in which to come into compliance with its implementation of USA.
- (10) We further believe that specific direction as to how Ameritech should come into compliance is warranted.
- (11) Ameritech shall comply with the directives in this decision within 6 months of this Opinion and Order.

ORDER:

It is, therefore,

ORDERED, That the September 4, 1997 motion of Edgemont, Empowerment, OCC, AARP, Toledo, and APAC is granted in part and denied in part, as set forth in greater detail in this Opinion and Order. It is, further,

ORDERED, That Ameritech shall comply with the above directives within 6 months of this Opinion and Order, unless otherwise granted an extension of time by this Commission. It is, further,

ORDERED, That nothing in this Opinion and Order shall be binding upon this Commission in any subsequent investigation or proceeding involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

ORDERED, That this Opinion and Order does not constitute state action for the purpose of the antitrust laws. It is not our intent to insulate any of the parties to the proceeding from the provisions of any state or federal law, which prohibits the restraint of trade. It is, further,



